

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Mark Anthony McCullough,)	
Plaintiff,)	C.A. No.: 2:09-2631-RBH
)	
vs.)	
)	ORDER
Albert Crawford, Sergeant Milton Sims,)	
Defendants)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Robert S. Carr, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

The Plaintiff filed no objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). Plaintiff did file a letter (docket entry #13) on November 19, 2009 in which he requests additional time until February of 2010 to file objections to the

Report. The letter was dated on November 16, 2009, the date on which objections were due, but it is unclear when it was received by the prison mailroom. The envelope was post-marked on November 17. Even if the letter requesting an extension of time was timely filed, which the court highly questions, his request to extend the time for filing objections for two and one-half months until February, 2010 is unreasonable and is denied. Therefore, the plaintiff has failed to timely file objections to the Report.

The Court has thoroughly reviewed the Report and Recommendation and the record in this case and finds that it accurately states the law. Therefore, the court adopts Magistrate Judge Carr's Report and Recommendation and incorporates it herein. It is therefore

ORDERED that the complaint is dismissed without prejudice and without issuance and service of process. The plaintiff is reminded that the matter is only being dismissed **without prejudice** rather than with prejudice at this time because his complaint at the present time fails to state a claim and on the basis of the abstention doctrine as explained in the Magistrate's Report and Recommendation.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
November 24, 2009